

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

THOMAS CRAIG

PLAINTIFF

V.

CIVIL ACTION NO.2:05CV152-NBB-JAD

JAMES A. RILEY, et al.

DEFENDANTS

FINAL JUDGMENT

On consideration of the file and records in this action, pursuant to 28 U.S.C. §636(b)(1)(B), an evidentiary hearing having been noticed for October 3, 2006, by the Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B), and Spears v. McCotter, 766 F.2d 179 (5 Cir. 1985), at which time the plaintiff refused to be transported to Court, the Court finds that the Report and Recommendation of the United States Magistrate Judge dated October 5, 2006, was on that date duly served by first class mail upon the plaintiff and counsel for defendants; that more than ten days have elapsed since service of said Report and Recommendation; and that no objection thereto has been filed or served by said parties. The Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court. It is, therefore

ORDERED:

1. That the Report and Recommendation of the United States Magistrate Judge dated October 5, 2006, be, and it is hereby, approved and adopted, and that the proposed findings of fact and conclusions of law therein set out be, and they are hereby, adopted as the findings of fact and conclusions of law of the Court.

2. That this case be and hereby is **dismissed without prejudice for failure to prosecute pursuant to Rule 41(b), F.R.Civ.P. and for failure to obey an order of the court.**

THIS the ____ day of November, 2006.

/s/ Neal Biggers

SENIOR JUDGE